WP(C) 4713/2007

BEFORE

HON'BLE MR. JUSTICE B.K. SHARMA

The petitioner, who was allotted with the Gangadhar Sand-cum-Gravel Mahal for a period of two years by provisional order dated 18.7.2006 followed by final settlement order dated 2.8.2006, is aggrieved by the risk sale notice dated 24.8.2007 (Annexure-VI to the writ petition). It is the case of the petitioner that upon settlement of the Mahal at its bid value of Rs.6,55,000/-, he found that the allotted quantity of sand and gravel was not available in the Mahal. Situated thus, the petitioner made representations before the Divisional Forest Officer, Dhubri Division praying for remission of the settlement amount. However, according to the petitioner, no action was taken and in the meantime, the impugned risk sale notice dated 24.8.2007 has been issued.

The respondents have filed their counter affidavit controverting the claim made by the petitioner in the writ petition. As per the said affidavit, the petitioner did not deposit the 3rd kist money and instead, prayed for time up to 5.3.2007. Thereafter, he again prayed for time up to 21.3.2007. However, instead of depositing the kist money, he approached the Civil Judge, Dhubri by filing a suit being Title Suit No.2/2007 with a prayer for temporary injunction vide Misc. (J) Case No.7/2007. The prayer for injunction has been rejected by order dated 18.8.2007.

The aforesaid fact of filing the Title Suit is not disclosed in the writ petition. It is the case of the respondents that since the petitioner failed to deposit the kist money in terms of the settlement order and the agreement executed by him with the respondents, the same hasd been put to risk sale by the impugned notice dated 24.8.2007.

Pursuant to the aforesaid risk sale notice, the respondents have received two tenders and the matter has been processed and now, at the final stage.

In Para-6 of the affidavit, the respondents have pointed out that the petitioner filed the title suit for declaration of his title over the Mahal. His prayer for injunction has been rejected.

If the petitioner has not deposited payment of the kist money, there is nothing wrong for the respondents to put the Mahal for risk sale. Further, there being suppression of material fact by way of not disclosing the fact that the petitioner has already approached the civil Court, the writ petition is liable to be dismissed, which I accordingly do.

Writ petition is dismissed. Interim order stands vacated.